

Appl. No. 10/765,242
Response Dated November 7, 2005
Reply to Office Action of September 19, 2005

ATTORNEY DOCKET NO. 7058

REMARKS

Claim 1 originally filed in the application has been rejected as unpatentable over Goe et al., U.S. Patent No. 5,099,028 on the grounds that Goe teaches a process for preparing a 4-amino-1,2,4-4(H) triazole derivative composition, which includes the step of reacting hydrazine or an aqueous hydrazine solution with a carboxylic acid having the formula RCO_2H , the improvement which comprises conducting said reaction in the presence of an insoluble polymer containing acidic functional groups sufficiently strong to and which cause the reacting step to proceed (column 8, line 1) and comprising the additional step of recovering the polymer by filtration means (column 8, claim 8) and where the reaction is carried out at a temperature range from about 105 degrees C to about 150 degrees C (column 8, claim 11).

The Action states that the difference between the prior art of Goe and the claim of the present application is that in the instant process, ethyl formate, a carboxylic acid analogue (i.e. an ester), is used while in the prior art a carboxylic acid is used. The Action states that the claimed process is prima facie obvious because the instantly claimed process and the processes of Goe have the same critical steps.

The rejection is duly noted but applicants respectfully traverse.

In Goe, there are twelve examples of their patent reaction for the synthesis of ATA. In these examples they describe the use of ten different carboxylic acids and they make no mention of any non-carboxylic acid as the acidic reactant. The patent also specifically calls out "carboxylic acids" several times with no indication that there was intent to include any other families of organic compounds.

In view of the above comments, it is submitted that Goe teaches away from the present

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invention by excluding other families of organic compounds. Thus, it is submitted that the present application is distinguished over the cited art and it is respectfully requested that a notice of allowance issue in due course.

Respectfully submitted,

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